

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 379 be amended to read as follows:

- 1 Page 6, between lines 39 and 40, begin a new paragraph and insert:
- 2 "SECTION 14. IC 24-3-5.4-14 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Not later than
- 4 July 1 of each year, the attorney general shall make available to the
- 5 public by publishing on accessIndiana (as defined in IC 5-21-1-1.5) a
- 6 directory listing all brand families listed in certifications filed under
- 7 section 13 of this chapter.
- 8 (b) A directory described in subsection (a) shall not include the
- 9 name or brand families of a nonparticipating manufacturer:
- 10 (1) that fails to comply with section 13 of this chapter; or
- 11 (2) whose certification fails to comply with section 13(c) or 13(e)
- 12 of this chapter, unless the attorney general determines that the
- 13 failure has been remedied.
- 14 (c) The directory may not include a tobacco product manufacturer
- 15 or a brand family if the attorney general concludes that:
- 16 (1) in the case of a nonparticipating manufacturer, all escrow
- 17 payments required under IC 24-3-3-12 for any period for any
- 18 brand family, whether or not listed by the nonparticipating
- 19 manufacturer, have not been fully paid into a qualified escrow
- 20 fund governed by a qualified escrow agreement that has been
- 21 approved by the attorney general; or
- 22 (2) all outstanding final judgments, including interest on the
- 23 judgments, for violations of IC 24-3-3 have not been fully
- 24 satisfied for the tobacco product manufacturer or brand family.
- 25 (d) The attorney general shall update the directory as necessary to

1 correct mistakes or to add or remove a tobacco product manufacturer
2 or brand family to keep the directory in conformity with the
3 requirements of this chapter.

4 (e) The attorney general shall post in the directory and transmit by
5 electronic mail or other means to each distributor or stamping agent
6 notice of any removal from the directory of a tobacco product
7 manufacturer or brand family not later than thirty (30) days before the
8 attorney general removes the tobacco product manufacturer or brand
9 family from the directory.

10 (f) Unless otherwise provided in an agreement between a tobacco
11 product manufacturer and a distributor or stamping agent, a distributor
12 or stamping agent is entitled to a refund from a tobacco product
13 manufacturer for any money paid by the distributor or stamping agent
14 to the tobacco product manufacturer for any cigarettes of the tobacco
15 product manufacturer or brand family that:

16 (1) are in the possession of the distributor or stamping agent on;
17 or

18 (2) the distributor or stamping agent receives from a retailer after;
19 the date on which the tobacco product manufacturer or brand family is
20 removed from the directory.

21 (g) Unless otherwise provided in an agreement between a retailer
22 and a distributor, stamping agent, or tobacco product manufacturer, a
23 retailer is entitled to a refund from a distributor, stamping agent, or
24 tobacco product manufacturer for any money paid by the retailer to the
25 distributor, stamping agent, or tobacco product manufacturer for any
26 cigarettes of the tobacco product manufacturer or brand family that are
27 in the possession of the retailer on the date on which the tobacco
28 product manufacturer or brand family is removed from the directory.

29 (h) The attorney general shall not restore a tobacco product
30 manufacturer or brand family to the directory until the tobacco product
31 manufacturer pays a distributor, stamping agent, or retailer any refund
32 due under subsection (f) or (g).

33 (i) A distributor or stamping agent shall provide and update as
34 necessary an electronic mail address to the attorney general for
35 purposes of receiving a notification required by this chapter.

36 **(j) The failure of a distributor or stamping agent to receive**
37 **notice under subsection (e) or the failure of the attorney general to**
38 **provide notice of any removal from the directory of a tobacco**
39 **product manufacturer or brand family under subsection (e) does**

1 **not relieve the distributor or stamping agent of its obligations**
2 **under this chapter."**

3 Renumber all SECTIONS consecutively.
 (Reference is to ESB 379 as printed March 29, 2005.)

Representative Cherry